

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2001-1422-MWD-E TCEQ ID: 12780-001 CASE NO.: 7767
RESPONDENT NAME: SOUTHWOOD ESTATES, INC.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Approximately 1900 feet north of State Highway 6 and two miles east of the intersection of State Highway 6 and State Highway 288, near Manvel, Brazoria County</p> <p>TYPE OF OPERATION: Waste treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 5, 2005. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Mr. Terry Murphy, Air Enforcement Section, MC 149, (512) 239-5025</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Ms. Catherine Albrecht, Houston Regional Office, MC R-12, (713) 767-3672</p> <p style="margin-left: 20px;">Respondent: Mr. David S. Miller, President and Registered Agent, Southwood Estates, Inc., P. O. Box 757, Pearland, Texas 77588-0757</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: June 20, 2001, June 27, 2001, and May 13, 2002</p> <p>Date of NOE Relating to this Case: September 14, 2001, May 13, 2002</p> <p>Background Facts:</p> <p>The Respondent purchased the subject wastewater treatment facility in 1999. Prior to the purchase, the Respondent had been ordered to pay \$40,650 pursuant to a 1998 Agreed Order.</p> <p>During an inspection on June 27, 2001, the TCEQ investigator documented that the Respondent failed to comply with the order and failed to make any of the payments. The current action was initiated to enforce the 1998 Agreed Order and to assess penalties for additional violations discovered at the facility. The Respondent claimed that it had no money to fix the property or pay the penalty. Settlement negotiations were unsuccessful so the matter was referred to SOAH.</p> <p>While the matter was at SOAH the facility was sold to Gulf Coast Utilities in 2005 and a compliance agreement was reached between Gulf Coast and the TCEQ. Therefore, there are no corrective measures in this matter.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MWD</p> <p>1. Failed to:</p> <p>a) Conduct an analysis of the physical condition of each component of the existing wastewater treatment facility by 12/27/99.</p> <p>b) Develop and submit to the TNRCC by 12/27/99 a written Standard Operating Procedures ("SOP") for the operation and routine scheduled and preventive maintenance of all components of the Facility, prepared by a Texas Registered professional Engineer.</p> <p>c) Have a Texas Registered Professional Engineer review the SOP in the field with the Facility's operator(s) by January 26, 2000.</p>	<p>Initial Calculated Penalty: \$56,700</p> <p>Total Assessed: \$31,350</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$31,350</p> <p>The Respondent has paid the administrative penalty in full.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Explanation of Initial Calculated Penalty Reduction:</p> <p>The amount assessed was reduced due to litigation risk and the facts in this case.</p> <p>Findings Order Justification:</p> <p>There was an absence of management practices designed to ensure compliance.</p>	<p>Ordering Provisions:</p> <p>The Respondent shall pay \$40,650* to pay prior penalties owed in a Commissioner Order with Docket No. 1998-0219-MWD-E.</p> <p>* The Respondent paid the \$40,650 and the current penalties from the closing of the property as discussed in the background facts.</p>

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>d) Submit to the TCEQ written certification of completion of the SOP field review by February 5, 2000.</p> <p>e) Submit written certification of compliance with the limits of TPDES Permit No. 12780-001 and with the plans and schedules [Agreed Order No. 1998-0219-MWD-E, Ordering Provisions 2.c.-2.g.]</p> <p>2) Failed to prevent the unauthorized discharge of wastewater from the northwest corner of the aeration basin [TPDES Permit No. 12780-001 Permit Conditions 2.d. and 2.g., 30 TEX. ADMIN. CODE § 305.125(1) and (5)].</p> <p>3) Failed to submit discharge monitoring reports (DMRs) by the twentieth day of the month for January 2000 through June 2000 and August 2000 through May 2001 [TPDES Permit No. 12780-001 Monitoring and Reporting Requirements 1, 30 TEX. ADMIN. CODE §§ 319.7(d) and 305.125(a)].</p> <p>4) Failed to submit to the TCEQ Regional Office and Database and Monitoring Team of the Enforcement Division by September 1, 2001, an annual sludge report for the years 2000 and 2001 [TPDES Permit No. 12780-001 Requirements Applying to All Sewage Sludge Disposed in a Municipal Solid Waste Landfill G, and 30 TEX. ADMIN. CODE § 305.125(1)].</p> <p>5) Failed to submit discharge monitoring reports (DMRs) for the months of July 2000, and for June 2001 through March 2002. Eleven single violation events are recommended for the eleven DMRs not submitted for the months July 200, and June 2001 through March 2002. [TPDES Permit No. 12780-001 Monitoring and Reporting Requirements 1, 30 TEX. ADMIN. CODE §§ 319.7(d) and 305.125(1)].</p> <p>6) Failed to comply with permitted effluent limits [TPDES Permit No. 12780-001 Effluent Limitations and Monitoring requirements, and 30 TEX. ADMIN. CODE §§ 305.125(1)].</p>		



Policy Revision 2 (09/02)

Penalty Calculation Worksheet (PCW)

PCW Revision 09/24/02

DATES

PCW 21-Sep-2004

Screening 26-Nov-2001

Priority Due 26-Mar-2002

EPA Due N/A

RESPONDENT INFORMATION

Respondent Southwood Estates, Inc.

Respondent/Site ID No(s) TPDES Permit No. 12780-001

Facility/Site Region 12 - Houston

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No(s) 7767

Docket No. 2001-1422-MWD-E

No. Violations 6

Case Priority 3

Order Type Findings

Enf. Coordinator Terry Murphy

EC's Unit/Region Central Office Team 5

Media Program(s) Water Quality

Admin. Penalty \$ Limit

Minimum \$0

Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$27,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

85% Enhancement

Subtotals 2, 3 & 7

\$22,950

Notes

The compliance history period under review is 9/1/97 to 9/1/02. NOV's dated 11/22/99, 11/15/99, 10/18/99 (for effluent reporting violations), and 9/16/99 (for Ordering Provisions violations) were reviewed, as well as self-reported effluent NOV's for 10/99, 1/00, 2/00, 6/00, 10/00, 11/00, 3/01, 4/01, and 5/01. The Findings Order, Docket No. 1998-0219-MWD-E, effective 10/28/99, includes violations relating to wastewater treatment plant operation, reporting, and fees.

Culpability

25% Enhancement

Subtotal 4

\$6,750

Yes ☒ Select Yes/No

Notes

A meeting was held on 5/5/00 with Enforcement Division personnel and the Respondent and commented on by the Respondent in a letter dated 5/8/00. The Respondent's letter recognized the need to comply with the order issued 10/28/99.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Extraordinary

Before NOV

NOV to EDPRP/Settlement Offer

Ordinary

None of the above

X

(mark with small x)

Notes

The Respondent is not yet in compliance.

Economic Benefit

0% Enhancement*

Subtotal 6

\$2,718

Total EB Amounts

*Capped at the Total EB \$ Amount

\$6,935

Approx. Cost of Compliance

=

SUM OF SUBTOTALS 1-7

Final Subtotal

\$56,700

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

(enter number only; e.g. -30 for -30%)

Notes

Final Penalty Amount

\$56,700

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$56,700

DEFERRAL

Deferral

Reduction

Adjustment

\$0

Reduces the Final Assessed Penalty by the indicated percentage.

(enter number only; e.g. 20 for 20% reduction)

Notes

No deferral as this is a Findings order.

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PAYABLE PENALTY

\$56,700

Screening Date	26-Nov-2001	Docket Number	2001-1422-MWD-E	PCW
Respondent	Southwood Estates, Inc.			Policy Revision 2 (09/02)
Case ID No.	7767			PCW Revision 09/24/02
Respondent/Site ID No.	TPDES Permit No. 12780-001			
Media [Statute]	Water Quality			
Enf. Coordinator	Terry Murphy			
Site Address	Approximately 1900 feet north of State Highway 6 and two miles east of the intersection of State Highway 6 and State Highway 288, Brazoria County			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	12	60%
	Other written NOVs		0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)		0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)		0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)		0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)		0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which no violations were disclosed</i>)		0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)		0%
Please enter Yes or No			
Other	Environmental management systems in place for one year or more		0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program		0%
	Participation in a voluntary pollution reduction program		0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements		0%

Adjustment Percentage (Subtotal 2) **85%**

>> Repeat Violator (Subtotal 3)

No ☒ Select Yes/No

Adjustment Percentage (Subtotal 3) **0%**

>> Compliance History Person Classification (Subtotal 7)

0%

Average Performer ☒ Select High, Average or Poor

Adjustment Percentage (Subtotal 7) **0%**

Compliance History Summary

Compliance History Notes

The compliance history period under review is 9/1/97 to 9/1/02. NOVs dated 11/22/99, 11/15/99, 10/18/99 (for effluent reporting violations), and 9/16/99 (for Ordering Provisions violations) were reviewed, as well as self-reported effluent NOVs for 10/99, 1/00, 2/00, 6/00, 10/00, 11/00, 3/01, 4/01, and 5/01. The Findings Order, Docket No. 1998-0219-MWD-E, effective 10/28/99, includes violations relating to wastewater treatment plant operation, reporting, and fees.

Total Adjustment Percentage (Subtotals 2, 3 & 7) **85%**

Screening Date 26-Nov-01	Docket Number 2001-1422-MWD-E	PCW		
Respondent Southwood Estates, Inc.		Policy Revision 2 (09/02)		
Case ID No. 7767		PCW Revision 09/24/02		
Respondent/Site ID No. TPDES Permit No. 12780-001				
Media [Statute] Water Quality				
Enf. Coordinator Terry Murphy				
Violation Number 1				
Primary Rule Cite	Agreed Order No. 1998-0219-MWD-E Ordering Provisions 2.c. - 2.g.			
Secondary Cite(s)				
Violation Description	<p>Failure to: a) Conduct an analysis of the physical condition of each component of the existing wastewater treatment facility by 12/27/99. b) Develop and submit to the TNRCC by 12/27/99 a written Standard Operating Procedures ("SOP") for the operation and routine scheduled and preventative maintenance of all components of the Facility, prepared by a Texas registered professional engineer. c) Have the Engineer review the SOP in the field with the Facility's operator(s) by 1/26/00. d) Submit written certification of completion of the SOP field review by 2/5/00. e) Submit written certification of compliance with the limits of TPDES Permit No. 12780-001 and with the plans and schedules of Ordering Provisions 2.c. by 4/25/00. These violations were documented during an investigation on 6/27/01 and during record reviews on 6/20/01 and 1/14/02.</p>			
Base Penalty		\$10,000		
» Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text"/>	
» Programmatic Matrix				
OR	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
		Percent	10%	
Matrix Notes	100% of the requirements were not met.			
Adjustment		-\$9,000	
Base Penalty Subtotal		\$1,000		
Violation Events				
Number of Violation Events		3	
mark only one; use small x	daily	<input type="text"/>	Violation Base Penalty	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	x		
	single event	<input type="text"/>		
Events Notes	Three annual violation events are recommended from the order issuance date of 10/28/99 to the 11/26/01 screening date.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount (\$)		\$1,171	Violation Final Penalty total	
			\$6,300	
		This Violation Final Assessed Penalty (adjusted for limits)		
			\$6,300	

Economic Benefit Worksheet

Respondent Southwood Estates, Inc.

ID Number(s) 7767

Media [Statute] Water Quality

Violation Number 1

Percent
Interest

Depreciation

5.0

15

Item
DescriptionItem
Cost
No commas or \$Date
RequiredFinal
DateInterest
SavedOnetime
CostsEB
Amount**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$5,000	27-Dec-1999	1-May-2003	3.3	\$56	\$1,115	\$1,171
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Costs needed to analyze facility, develop and submit a SOP, and have SOP reviewed in the field by operator and engineer.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$5,000

TOTAL \$1,171

Screening Date 26-Nov-01	Docket Number 2001-1422-MWD-E	PCW		
Respondent Southwood Estates, Inc.	Policy Revision 2 (09/02)			
Case ID No. 7767	PCW Revision 09/24/02			
Respondent/Site ID No. TPDES Permit No. 12780-001				
Media [Statute] Water Quality				
Enf. Coordinator Terry Murphy				
Violation Number	<div style="border: 1px solid black; text-align: center;">2</div>			
Primary Rule Cite	TPDES Permit No. 12780-001 Permit Conditions 2.d. and 2.g.			
Secondary Cite(s)	30 Tex. Admin. Code § 305.125(1) and (5)			
Violation Description	Failure to prevent the unauthorized discharge of wastewater from the northwest corner of the aeration basin, as documented during an inspection on 6/27/01.			
Base Penalty		<div style="border: 1px solid black; text-align: right;">\$10,000</div>		
» Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	x
	Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
Percent		<div style="border: 1px solid black; text-align: right;">10%</div>		
» Programmatic Matrix				
OR	Falsification	Major	Moderate	Minor
	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
Percent		<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
Matrix Notes	<div style="border: 1px solid black; padding: 5px;"> The amount and extent of the discharged pollutants were assessed and a determination made that human health and the environment were exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of this discharge. </div>			
Adjustment		<div style="border: 1px solid black; text-align: right;">-\$9,000</div>		
Base Penalty Subtotal		<div style="border: 1px solid black; text-align: right;">\$1,000</div>		
Violation Events				
Number of Violation Events		<div style="border: 1px solid black; text-align: center;">1</div>		
mark only one; use small x	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	quarterly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	single event	x		
Violation Base Penalty		<div style="border: 1px solid black; text-align: right;">\$1,000</div>		
Events Notes	<div style="border: 1px solid black; padding: 5px;"> Based on the discharge documented during the 6/27/01 inspection, one single violation event is recommended. </div>			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount (\$)		<div style="border: 1px solid black; text-align: right;">\$1,500</div>		
Violation Final Penalty total		<div style="border: 1px solid black; text-align: right;">\$2,100</div>		
This Violation Final Assessed Penalty (adjusted for limits)		<div style="border: 1px solid black; text-align: right;">\$2,100</div>		

Economic Benefit Worksheet

Respondent Southwood Estates, Inc.

ID Number(s) 7767

Media [Statute] Water Quality

Violation Number 2

Percent
Interest

5.0

Depreciation

15

Item
DescriptionItem
CostDate
RequiredFinal
DateInterest
SavedOnetime
CostsEB
Amount

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,500	27-Jun-2001	28-Jun-2001	0.0	\$0	\$1,500	\$1,500
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Costs represent increased personnel time needed to avoid unauthorized discharges.

Approx Cost of Compliance

\$1,500

TOTAL

\$1,500

Screening Date 26-Nov-01	Docket Number 2001-1422-MWD-E	PCW		
Respondent Southwood Estates, Inc.		Policy Revision 2 (09/02)		
Case ID No. 7767		PCW Revision 09/24/02		
Respondent/Site ID No. TPDES Permit No. 12780-001				
Media [Statute] Water Quality				
Enf. Coordinator Terry Murphy				
Violation Number 3				
Primary Rule Cite	TPDES Permit No. 12780-001 Monitoring and Reporting Requirements 1 and 30 Tex. Admin. Code § 319.7(d)			
Secondary Cite(s)	30 Tex. Admin. Code § 305.125(1)			
Violation Description	Failure to submit discharge monitoring reports (DMRs) by the twentieth day of the following months for 1/00 through 6/00 and 8/00 through 5/01 (see attached Table A for details), as documented during a record review on 1/14/02.			
Base Penalty		\$10,000		
» Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Percent <input type="text"/>			
» Programmatic Matrix				
OR	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	x	<input type="text"/>
	Percent <input type="text"/> 5%			
Matrix Notes	The Respondent failed to comply with 50% of the rule. The rule requires both submittal and timeliness.			
Adjustment		-\$9,500		
Base Penalty Subtotal		\$500		
Violation Events				
Number of Violation Events		16		
mark only one; use small x	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	x		
Violation Base Penalty		\$8,000		
Events Notes	Sixteen violation events are recommended for the sixteen late DMRs for the months 1/00 through 6/00 and 8/00 through 5/01.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount (\$) <input type="text"/> \$6		Violation Final Penalty total <input type="text"/> \$16,800		
This Violation Final Assessed Penalty (adjusted for limits)		\$16,800		

Economic Benefit Worksheet

Respondent Southwood Estates, Inc.
ID Number(s) 7767
Media [Statute] Water Quality
Violation Number 3

Percent Interest	Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$80	2-Feb-2000	5-Jul-2001	1.4	\$6	n/a	\$6
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The first report was due 2/20/00 and the last report was submitted 7/5/01. The cost of timely mailings to the TNRCC = \$5 for each of the 16 overdue reports.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance **\$80**

TOTAL **\$6**

Screening Date 26-Nov-01	Docket Number 2001-1422-MWD-E	PCW												
Respondent Southwood Estates, Inc.		Policy Revision 2 (09/02)												
Case ID No. 7767		PCW Revision 09/24/02												
Respondent/Site ID No. TPDES Permit No. 12780-001														
Media [Statute] Water Quality														
Enf. Coordinator Terry Murphy														
Violation Number 4														
Primary Rule Cite	TPDES Permit No. 12780-001 Requirements Applying to All Sewage Sludge Disposed in a Municipal Solid Waste Landfill G.													
Secondary Cite(s)	30 Tex. Admin. Code § 305.125(1)													
Violation Description	Failure to submit to the TNRCC Regional Office and Database and Monitoring Team of the Enforcement Division, by 9/1/01, an annual sludge report for the years 2000 and 2001, as documented during a record review on 1/14/02.													
Base Penalty		\$10,000												
» Environmental, Property and Human Health Matrix														
	Harm													
	Release	Major Moderate Minor												
OR	Actual	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 33%; height: 20px;"></td><td style="width: 33%; height: 20px;"></td><td style="width: 33%; height: 20px;"></td></tr> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td><td style="height: 20px;"></td></tr> </table>												
	Potential	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 33%; height: 20px;"></td><td style="width: 33%; height: 20px;"></td><td style="width: 33%; height: 20px;"></td></tr> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td><td style="height: 20px;"></td></tr> </table>												
	Percent 													
» Programmatic Matrix														
	Falsification	Major Moderate Minor												
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 33%; height: 20px;"></td><td style="width: 33%; height: 20px; text-align: center;">x</td><td style="width: 33%; height: 20px;"></td></tr> <tr><td style="height: 20px;"></td><td style="height: 20px;"></td><td style="height: 20px;"></td></tr> </table>		x					Percent 10%						
	x													
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">The Respondent has failed to comply with 100% of the rule.</div>													
Adjustment		-\$9,000												
Base Penalty Subtotal		\$1,000												
Violation Events														
Number of Violation Events		1												
<i>mark only one; use small x</i>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 30px;">daily</td><td style="width: 100px; height: 20px;"></td></tr> <tr><td>monthly</td><td style="height: 20px;"></td></tr> <tr><td>quarterly</td><td style="height: 20px;"></td></tr> <tr><td>semiannual</td><td style="height: 20px;"></td></tr> <tr><td>annual</td><td style="height: 20px;"></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event	x	Violation Base Penalty \$1,000
daily														
monthly														
quarterly														
semiannual														
annual														
single event	x													
Events Notes	<div style="border: 1px solid black; padding: 5px;">One single violation event is recommended for failure to submit the report by the due date of 9/1/01.</div>													
Economic Benefit (EB) for this violation		Statutory Limit Test												
Estimated EB Amount (\$) \$34		Violation Final Penalty total \$2,100												
This Violation Final Assessed Penalty (adjusted for limits)		\$2,100												

Economic Benefit Worksheet

Respondent: Southwood Estates, Inc.

ID Number(s) 7767

Media [Statute] Water Quality

Violation Number 4

Percent
Interest

Depreciation

5.0

15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Interest Saved	Onetime Costs	EB Amount
------------------	------------------------------	---------------	------------	----------------	---------------	-----------

Delayed Costs

Equipment	\$300	14-Sep-2001	1-May-2003	1.6	\$2	\$33	\$34
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Costs of maintaining and submitting sludge records.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$300

TOTAL \$34

Screening Date	26-Nov-01	Docket Number	2001-1422-MWD-E	PCW
Respondent	Southwood Estates, Inc.	Policy Revision 2 (09/02)		
Case ID No.	7767	PCW Revision 09/24/02		
Respondent/Site ID No.	TPDES Permit No. 12780-001			
Media [Statute]	Water Quality			
Enf. Coordinator	Terry Murphy			
Violation Number	5			
Primary Rule Cite	TPDES Permit No. 12780-001 Monitoring and Reporting Requirements 1 and 30 Tex. Admin. Code § 319.7(d)			
Secondary Cite(s)	30 Tex. Admin. Code § 305.125(1)			
Violation Description	Failure to submit discharge monitoring reports (DMRs) for 7/00 and for 6/01 through 3/02, as documented during a record review on 5/13/02.			
Base Penalty				\$10,000

»	Environmental, Property and Human Health Matrix													
	Harm													
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; text-align: center;">Release</td> <td style="width: 20%; text-align: center;">Major</td> <td style="width: 20%; text-align: center;">Moderate</td> <td style="width: 20%; text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> </tr> </table>	Release	Major	Moderate	Minor	Actual				Potential				Percent <input style="width: 50px;" type="text"/>
Release	Major	Moderate	Minor											
Actual														
Potential														
OR														
	Programmatic Matrix													
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; text-align: center;">Falsification</td> <td style="width: 20%; text-align: center;">Major</td> <td style="width: 20%; text-align: center;">Moderate</td> <td style="width: 20%; text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> </tr> </table>	Falsification	Major	Moderate	Minor	Actual	x			Potential				Percent <input style="width: 50px;" type="text" value="10%"/>
Falsification	Major	Moderate	Minor											
Actual	x													
Potential														
OR														
Matrix Notes	The Respondent failed to comply with 100% of the rule.													
Adjustment		-\$9,000												
Base Penalty Subtotal		\$1,000												

Violation Events														
Number of Violation Events	11													
mark only one; use small x	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td></td></tr> <tr><td style="text-align: center;">monthly</td><td></td></tr> <tr><td style="text-align: center;">quarterly</td><td></td></tr> <tr><td style="text-align: center;">semiannual</td><td></td></tr> <tr><td style="text-align: center;">annual</td><td></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;">x</td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event	x	Violation Base Penalty
daily														
monthly														
quarterly														
semiannual														
annual														
single event	x													
		\$11,000												
Events Notes	Eleven single violation events are recommended for the eleven DMRs not submitted for the months 7/00, and 6/01 through 3/02.													

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$)	Violation Final Penalty total
\$8	\$23,100
This Violation Final Assessed Penalty (adjusted for limits)	
\$23,100	

Economic Benefit Worksheet

Respondent Southwood Estates, Inc.
ID Number(s) 7767
Media [Statute] Water Quality
Violation Number 5

Percent Interest	Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$55	20-Jul-2000	1-May-2003	2.8	\$8	n/a	\$8
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Costs of submitting DMRs to the TNRC = \$5 for each of the 11 missing reports.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$55

TOTAL \$8

Screening Date 26-Nov-01	Docket Number 2001-1422-MWD-E	PCW
Respondent Southwood Estates, Inc.	Policy Revision 2 (09/02)	
Case ID No. 7767	PCW Revision 09/24/02	
Respondent/Site ID No. TPDES Permit No. 12780-001		
Media [Statute] Water Quality		
Enf. Coordinator Terry Murphy		
Violation Number	6	
Primary Rule Cite	TPDES Permit No. 12780-001 Effluent Limitations and Monitoring Requirements	
Secondary Cite(s)	30 Tex. Admin. Code § 305.125(1)	
Violation Description	Failure to comply with permitted effluent limits, as documented during a record review on 10/1/02. See attached Table B for details.	
Base Penalty		\$10,000

» Environmental: Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Percent <input type="text" value="10%"/>			
» Programmatic Matrix				
OR	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent				

Matrix Notes	<p>A simplified model was used to evaluate the values for BOD and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. TSS, pH, and chlorine residual values were also evaluated. The amounts discharged at the time of the violations were insignificant and did not exceed levels protective of human health or environmental receptors.</p>
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Adjustment	-\$9,000
Base Penalty Subtotal	\$1,000

Violation Events													
Number of Violation Events	3												
<small>mark only one; use small x</small>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="checkbox"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>
daily	<input type="text"/>												
monthly	<input type="text"/>												
quarterly	<input checked="" type="checkbox"/>												
semiannual	<input type="text"/>												
annual	<input type="text"/>												
single event	<input type="text"/>												
Violation Base Penalty													
\$3,000													

Events Notes	Three quarterly events are recommended based on violations reported for nine months during the period October 1999 through May 2001.
---------------------	--

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount (\$)	\$0	Violation Final Penalty total	\$6,300
This Violation Final Assessed Penalty (adjusted for limits)			\$6,300

Economic Benefit Worksheet

Respondent Southwood Estates, Inc.

ID Number(s) 7767

Media [Statute] Water Quality

Violation Number 6

Percent
Interest

Depreciation

5.0

15

Item
DescriptionItem
Cost
No commas or \$Date
RequiredFinal
DateInterest
SavedOnetime
CostsEB
Amount**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefits for this violation are included in Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$0

TOTAL \$0

DMR Violation Table

Respondent	Southwood Estates, Inc.
ID NUMBER	TPDES Permit No. 12780-001, Enf. ID No. 8793-3
Docket Number	2001-1422-MWD-E
Enf. Coordinator	Terry Murphy

Corresponds to Violation Number:

For the month of	Date Due	Received	Number of days late
January 2000	February 20, 2000	July 17, 2000	147
February 2000	March 20, 2000	July 17, 2000	119
March 2000	April 20, 2000	July 21, 2000	92
April 2000	May 20, 2000	July 21, 2000	62
May 2000	June 20, 2000	July 21, 2000	31
June 2000	August 20, 2000	March 16, 2001	208
August 2000	September 20, 2000	March 16, 2001	177
September 2000	October 20, 2000	March 16, 2001	147
October 2000	November 20, 2000	March 16, 2001	116
November 2000	December 20, 2000	March 16, 2001	86
December 2000	January 20, 2001	March 16, 2001	55
January 2001	February 20, 2001	March 16, 2001	24
February 2001	March 20, 2001	July 5, 2001	107
March 2001	April 20, 2001	July 5, 2001	76
April 2001	May 20, 2001	July 5, 2001	46
May 2001	June 20, 2001	July 5, 2001	15

Effluent Limit Violation Table							
Corresponds to Violation Number:						6	
Effluent Parameter							
Permit Limit							
	chlorine residual	TSS	TSS	pH	DO	BOD	Flow
Month/Year	at least 1.0 mg/L	7-day av. 20 mg/L	daily max. 65 mg/L	at least 6 standard units	at least 2.0 mg/L	daily av. 5.7 lb/day	daily av. 0.034 MGD
Oct. 99						5.9	0.141
Jan. 00		25.1					
Feb. 00	0.0						
Jun. 00	0.0						
Oct. 00					0.8		
Nov. 00	0.0						
Mar. 01	0.0	24.4	81.0	4.7			
Apr. 01	0.0						
May 01	0.0						

Notes:

- avg = average
- max = maximum
- mg/L = milligrams per liter
- lb/day = pounds per day
- TSS = total suspended solids
- DO = dissolved oxygen
- BOD = biochemical oxygen demand (5-day)
- MGD = million gallons per day

COMPLIANCE HISTORYCustomer/Respondent/Owner-Operator: Southwood Estates, Inc. Classification: AverageRegulated Entity/ID Nos.: Iowa Colony Plant, TPDES Permit No. 12780-001, Central Registry IDs: RN102076239, CN600671184 Site Rating: 40.89Location (including city or nearest city, and county): Approximately 1900 feet north of SH 6 and two miles east of the intersection of SH 6 and SH 288 Repeat Violator: N
(y/n)TCEQ Region No. 12Date Compliance History Prepared: 9/26/02

Agency Decision Requiring Compliance History (mark one):

- ☐ the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit
☒ enforcement
☐ the use of announced investigations (Field Ops)
☐ participation in innovative programs

Compliance Period: 9/1/97 - 9/1/02

TCEQ staff person to contact for additional information regarding this compliance history:

Name: Terry Murphy Phone: (512) 239-5025**Site Compliance History Components**

1. Has the site been in existence and/or operation for the full five year compliance period? ☒ Yes ☐ No ☐ Unk
 2. Has there been a (known) change in ownership of the site during the compliance period? ☐ Yes ☒ No ☐ Unk
 3. If Yes, who is the current owner? _____
 4. If Yes, who was/were the prior owner(s)? _____
 5. When did the change(s) in ownership occur? _____

Components (multimedia) for the Site during the portion of the five-year compliance history the site was owned by the person who is the subject of this compliance history:

A. Final enforcement orders, court judgments, and consent decrees of the state of Texas and the federal government

1. Effective Date: 10/28/99 Type of Action: TNRCC Findings Order, Docket No. 1998-0219-MWD-E

Violation Citation 1: 30 TAC 317.3 Classification: MODERATE

Violation Description: Failed to meet design standards
 Violation Citation 2: 30 TAC 305.125 Classification: MODERATE

Violation Description: Failed to properly operate and maintain facility
 Violation Citation 3: 30 TAC 307.4(i), TWC 26.121 Classification: MODERATE

Violation Description: Failed to prevent an unauthorized discharge
 Violation Citation 4: 30 TAC 309.3(g), and Permit conditions Classification: MODERATE

Violation Description: Failed to maintain minimum chlorine residual
 Violation Citation 5: 30 TAC 291.76, 305.503(a), 320.221, 3412.041, TWC 26.029(a), and Permit conditions Classification: MINOR

Violation Description: Failed to pay fees
 Violation Citation 6: 30 TAC 305.125(17), 319.7(d), and Permit conditions Classification: MODERATE

Violation Description: Failed to submit effluent reports

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events: None

D. The dates of investigations.

1. 9/16/99
2. 10/18/99
3. 11/12/99
4. 11/15/99
5. 11/22/99
6. 6/20/01
7. 6/27/01
8. 1/14/02

E. Written notices of violation (NOV)

- | | | | | | |
|----|---|-----------------|---|--|----------|
| 1. | Date: 9/16/99 | Self-reported? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | |
| | Violation Citation 1: 30 TAC 319.1 - 319.11 | Classification: | | | MODERATE |
| | Violation Description: Failure to submit effluent report | | | | |
| 2. | Date: 10/18/99 | Self-reported? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | |
| | Violation Citation 1: 30 TAC 319.1 - 319.11 | Classification: | | | MODERATE |
| | Violation Description: Failure to submit effluent report | | | | |
| 3. | Date: 11/15/99 | Self-reported? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | |
| | Violation Citation 1: 30 TAC 319.1 - 319.11 | Classification: | | | MODERATE |
| | Violation Description: Failure to submit effluent report | | | | |
| 4. | Date: 7/26/01 | Self-reported? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | |
| | Violation Citation 1: Agreed Order, Docket No. 1998-0219-MWD-E, OP 2.c. | Classification: | | | MAJOR |
| | Violation Description: Failure to comply with Ordering Provision | | | | |
| | Violation Citation 2: Agreed Order, Docket No. 1998-0219-MWD-E, OP 2.d., e. and f. | Classification: | | | MAJOR |
| | Violation Description: Failure to comply with Ordering Provision | | | | |
| | Violation Citation 3: Agreed Order, Docket No. 1998-0219-MWD-E, OP 2.g. | Classification: | | | MAJOR |
| | Violation Description: Failure to comply with Ordering Provision | | | | |
| 5. | Date: 10/99 | Self-reported? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | |
| | Violation Citation 1: 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 12780-001 | Classification: | | | MODERATE |
| | Violation Description: Effluent | | | | |
| 6. | Date: 1/00 | Self-reported? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | |
| | Violation Citation 1: 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 12780-001 | Classification: | | | MODERATE |
| | Violation Description: Effluent | | | | |
| 7. | Date: 2/00 | Self-reported? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | |
| | Violation Citation 1: 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 12780-001 | Classification: | | | MODERATE |
| | Violation Description: Effluent | | | | |
| 8. | Date: 6/00 | Self-reported? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | |
| | Violation Citation 1: 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 12780-001 | Classification: | | | MODERATE |
| | Violation Description: Effluent | | | | |
| 9. | Date: 11/00 | Self-reported? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | |
| | Violation Citation 1: 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 12780-001 | Classification: | | | MODERATE |
| | Violation Description: Effluent | | | | |

10. Date: 3/01
Violation Citation 1: 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 12780-001
Violation Description: Effluent
Self-reported? ☒ Yes ☐ No
Classification: MODERATE
11. Date: 4/01
Violation Citation 1: 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 12780-001
Violation Description: Effluent
Self-reported? ☒ Yes ☐ No
Classification: MODERATE
12. Date: 5/01
Violation Citation 1: 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 12780-001
Violation Description: Effluent
Self-reported? ☒ Yes ☐ No
Classification: MODERATE

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SOUTHWOOD ESTATES, INC.,
TCEQ ID NO. 12780-001

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2001-1422-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Southwood Estates, Inc. ("Southwood") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Southwood, presented this agreement to the Commission.

Southwood understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Southwood agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Southwood.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Southwood owns and operates a wastewater treatment facility located at approximately 1900 feet north of State Highway 6 and two miles east of the intersection of State Highway 6 and State Highway 288 near Manvel, Brazoria County, Texas ("the Facility").
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.

3. During an inspection conducted on June 27, 2001 by a TCEQ Houston Regional Office investigator, and in record reviews conducted by TCEQ central office staff on June 20, 2001 and January 14, 2002, TCEQ staff documented that Southwood violated the following Ordering Provisions of Agreed Order No. 1998-0219-MWD-E, effective October 28, 1999, by failing to:
 - a. Conduct an analysis of the physical condition of each component of the existing wastewater treatment facility by December 27, 1999 (Ordering Provision 2.c.);
 - b. Develop and submit to the TCEQ by December 27, 1999, a written Standard Operating Procedure ("SOP") for the operation and routine scheduled and preventive maintenance of all components of the Facility, prepared by a Texas Registered Professional Engineer (Ordering Provision 2.d.);
 - c. Have a Texas Registered Professional Engineer review the SOP in the field with the Facility's operator(s) by January 26, 2000 (Ordering Provisions 2.e.);
 - d. Submit to the TCEQ written certification of completion of the SOP field review by February 5, 2000 (Ordering Provision 2.f.); and
 - e. Submit written certification of compliance with the limits of TPDES Permit No. 12780-001 and with the plans and schedules pursuant to Ordering Provisions 2.c. of Agreed Order Docket No. 1998-0219-MWD-E, by April 25, 2000 (Ordering Provision 2.g.).
4. Southwood's failure to comply with Agreed Order Docket No. 1998-0219-MWD-E caused the penalty amount deferred in that order (\$40,650.00) to become due and payable to the State of Texas.
5. During an investigation conducted on June 27, 2001, a TCEQ Houston Regional Office investigator documented that Southwood failed to prevent the unauthorized discharge of wastewater from the northwest corner of the aeration basin, in violation of TPDES Permit No. 12780-001, Permit Conditions 2.d. and 2.g., and 30 TEX. ADMIN. CODE § 305.125(1) and (5).
6. During a record review on January 14, 2002, TCEQ central office staff documented that Southwood failed to submit discharge monitoring reports ("DMRs") by the twentieth day of the following month for the months of January 2000 through June 2000 and August 2000 through May 2001, in violation of TPDES Permit No. 12780-001 Monitoring and Reporting Requirements 1, and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d).

7. During a record review conducted on January 14, 2002, TCEQ central office staff documented that Southwood failed to submit to the TCEQ Regional Office and Database Monitoring Team of the Enforcement Division, by September 1, 2001, an annual sludge report for the years 2000 and 2001, in violation of TPDES Permit No. 12780-001, Requirements Applying to All Sewage Sludge Disposed in a Municipal Solid Waste Landfill G, and 30 TEX. ADMIN. CODE § 305.125(1).
8. During a record review conducted on May 13, 2002, TCEQ central office staff documented that Southwood failed to submit discharge monitoring reports (DMRs) for the months of July 2000, and June 2001 through March 2002, in violation of TPDES Permit No. 12780-001 Monitoring and Reporting Requirements 1, and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d).
9. During a record review conducted on October 1, 2002, TCEQ central office staff documented that Southwood failed to comply with permitted effluent limits, in violation of TPDES Permit No. 12780-001 Effluent Limitations and Monitoring Requirements, and 30 TEX. ADMIN. CODE §§ 305.125(1). Specifically, Southwood exceeded its permit limits in the following areas:
 - a. The permitted limit for chlorine residual is at least 1.0 milligrams per liter ("mg/L"). Southwood reported 0.0 mg/L for the months of February, June, and November 2000, and March thru May 2001;
 - b. The permitted limit for total suspended solids ("TSS") in a 7-day average is 20 mg/L. Southwood reported 25.1 mg/L for the month of January 2000, and 24.4 mg/L for the month of March 2001;
 - c. The permitted daily maximum limit for TSS is 65 mg/L. Southwood reported an 81.0 mg/L for the month of March 2001;
 - d. The permitted limit for pH is at least 6 standard units. Southwood reported 4.7 units for the month of March 2001;
 - e. The permitted limit for dissolved oxygen ("DO") is at least 2.0 mg/L. Southwood reported 0.8 mg/L in the month of October 2000;
 - f. The permitted limit for biochemical oxygen demand ("BOD") is a daily average of 5.7 lbs/day. Southwood reported 5.9 lbs/day for the month of October 1999; and

- g. The permitted daily flow average under the permit is 0.034 million gallons day ("MGD"). Southwood reported a flow of 0.141 MGD for the month of October 1999.
- 10. Southwood received notice of the violations set forth in Paragraphs Nos. 3 and 4 above on or about September 19, 2001 and May 18, 2002.
- 11. The Executive Director recognizes that Southwood is selling the Facility with the closing date scheduled for on or about April 15, 2005, and will no longer own or operate the Facility.

CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact Nos. 1 and 2, Southwood is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002 and TEX. WATER CODE ch. 26 and the rules of the Commission.
- 2. As evidenced by Finding of Fact No. 3, Southwood failed to:
 - a. Conduct an analysis of the physical condition of each component of the existing wastewater treatment facility by December 27, 1999 (Ordering Provision 2.c.);
 - b. Develop and submit to the TCEQ by December 27, 1999, a written Standard Operating Procedure ("SOP") for the operation and routine scheduled and preventive maintenance of all components of the Facility, prepared by a Texas Registered Professional Engineer (Ordering Provision 2.d.);
 - c. Have a Texas Registered Professional Engineer review the SOP in the field with the Facility's operator(s) by January 26, 2000 (Ordering Provisions 2.e.);
 - d. Submit to the TCEQ written certification of completion of the SOP field review by February 5, 2000 (Ordering Provision 2.f.); and
 - e. Submit written certification of compliance with the limits of TPDES Permit No. 12780-001 and with the plans and schedules pursuant to Ordering Provisions 2.c. of Agreed Order Docket No. 1998-0219-MWD-E, by April 25, 2000 (Ordering Provision 2.g.).
 - f.
- 3. As evidenced by Finding of Fact No. 4, Southwood owes \$40,650.00 to the State of Texas.

4. As evidenced by Finding of Fact No. 5, Southwood failed to prevent the unauthorized discharge of wastewater from the northwest corner of the aeration basin, in violation of TPDES Permit No. 12780-001, Permit Conditions 2.d. and 2.g., and 30 TEX. ADMIN. CODE § 305.125(1) and (5).
5. As evidenced by Finding of Fact No. 6, Southwood failed to submit discharge monitoring reports ("DMRs") by the twentieth day of the following month for the months of January 2000 through June 2000 and August 2000 through May 2001, in violation of TPDES Permit No. 12780-001 Monitoring and Reporting Requirements 1, and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d).
6. As evidenced by Findings of Fact No. 7, Southwood failed to submit to the TCEQ Regional Office and Database Monitoring Team of the Enforcement Division, by September 1, 2001, an annual sludge report for the years 2000 and 2001, in violation of TPDES Permit No. 12780-001, Requirements Applying to All Sewage Sludge Disposed in a Municipal Solid Waste Landfill G, and 30 TEX. ADMIN. CODE § 305.125(1).
7. As evidenced by Finding of Fact No. 8, Southwood failed to submit discharge monitoring reports (DMRs) for the months of July 2000, and June 2001 through March 2002, in violation of TPDES Permit No. 12780-001 Monitoring and Reporting Requirements 1, and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d).
8. As evidenced by Finding of Fact No. 9, Southwood failed to comply with permitted effluent limits, in violation of TPDES Permit No. 12780-001 Effluent Limitations and Monitoring Requirements, and 30 TEX. ADMIN. CODE §§ 305.125(1). Specifically, Southwood exceeded its permit limits in the following areas:
 - a. The permitted limit for chlorine residual is at least 1.0 milligrams per liter ("mg/L"). Southwood reported 0.0 mg/L for the months of February, June, and November 2000, and March thru May 2001;
 - b. The permitted limit for total suspended solids ("TSS") in a 7-day average is 20 mg/L. Southwood reported 25.1 mg/L for the month of January 2000, and 24.4 mg/L for the month of March 2001;
 - c. The permitted daily maximum limit for TSS is 65 mg/L. Southwood reported an 81.0 mg/L for the month of March 2001;
 - d. The permitted limit for pH is at least 6 standard units. Southwood reported 4.7 units for the month of March 2001;

- e. The permitted limit for dissolved oxygen ("DO") is at least 2.0 mg/L. Southwood reported 0.8 mg/L in the month of October 2000;
 - f. The permitted limit for biochemical oxygen demand ("BOD") is a daily average of 5.7 lbs/day. Southwood reported 5.9 lbs/day for the month of October 1999; and
 - g. The permitted daily flow average under the permit is 0.034 million gallons day ("MGD"). Southwood reported a flow of 0.141 MGD for the month of October 1999.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Southwood for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
10. In addition to the amount owed under Conclusion of Law No. 3, an administrative penalty in the amount of thirty-one thousand three hundred fifty dollars (\$31,350.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Southwood agrees to place the seventy-two thousand dollars (\$72,000.00) to satisfy both the amount owed under Conclusion of Law No. 3 and the amount of the penalty as set forth in this Conclusion of Law into an escrow account to be paid at the time of the closing on or about April 15, 2005.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Southwood is assessed an administrative penalty in the amount of thirty-one thousand three hundred fifty dollars (\$31,350.00) as set forth in Conclusion of Law No. 10 for violations of TCEQ rules and state statutes. The imposition of this administrative penalty and Southwood's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Southwood Estates, Inc.; Docket No. 2001-1422-MWD-E; Enforcement ID No. 7767" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Southwood, in addition, shall pay forty thousand six hundred fifty dollars (\$40,650.00) as set forth in Conclusion of Law No. 3, to satisfy the debt owed to the State. Payment of this amount shall be sent with the notation "Re: Southwood Estates, Inc.; Docket No. 1998-0219-MWD-E; Enforcement ID No. 8793-3 to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

3. The provisions of this Agreed Order shall apply to and be binding upon Southwood. Southwood is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Southwood if the Executive Director determines that Southwood has not complied with one or more of the terms or conditions in this Agreed Order.
5. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
6. This Agreed Order, issued by the Commission, shall not be admissible against Southwood in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to Southwood, or three days after the date on which the Commission mails notice of the Order to Southwood, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

I, the undersigned, have read and understand the attached Agreed Order in the matter of Southwood Estates, Inc. I am authorized to agree to the attached Agreed Order on behalf of Southwood Estates, Inc. and do agree to the specified terms and conditions.

I understand that by entering into this Agreed Order, Southwood Estates, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

David S. Miller

Signature

24 MARCH 2005

Date

DAVID S. MILLER

Name (printed or typed)

Authorized Representative

Southwood Estates, Inc.

PRESIDENT

Title

I, the undersigned, on behalf of the Executive Director of the Texas Commission on Environmental Quality, hereby agree to the terms of this Agreed Order in lieu of an evidentiary hearing. This Agreed Order represents full and final adjudication of the violations giving rise to this Agreed Order.

[Signature]
For the Executive Director

3-24-05

Date